

Mr. SUNUNU. Madam President, I ask unanimous consent that the following votes in this stacked series be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

# USA PATRIOT TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the conference report to accompany H.R. 3199.

Mr. ENSIGN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 13, as follows:

[Rollcall Vote No. 26 Leg.]

## YEAS—86

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Frist	Pryor
Bennett	Graham	Reed
Biden	Grassley	Reid
Bingaman	Gregg	Roberts
Bond	Hagel	Rockefeller
Brownback	Hatch	Salazar
Bunning	Hutchison	Santorum
Burns	Inhofe	Sarbanes
Burr	Isakson	Schumer
Carper	Johnson	Sessions
Chafee	Kennedy	Shelby
Chambliss	Kerry	Smith
Clinton	Kohl	Snowe
Coburn	Kyl	Specter
Cochran	Landrieu	Stabenow
Coleman	Lautenberg	Stevens
Collins	Lieberman	Sununu
Conrad	Lincoln	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Thune
Crapo	Martinez	Vitter
DeMint	McCain	Voinovich
DeWine	McConnell	Warner
Dole	Menendez	

## NAYS—13

Boxer	Durbin	Levin
Byrd	Feingold	Murray
Cantwell	Harkin	Wyden
Dayton	Jeffords	
Dodd	Leahy	

## NOT VOTING—1

Inouye

The motion was agreed to.

Mr. SALAZAR. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Under the previous order, the question is on agreeing to the motion to re-

consider the vote by which cloture was not invoked on the conference report to accompany H.R. 3199.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 27 Leg.]

## YEAS—85

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Frist	Pryor
Bennett	Graham	Reed
Biden	Grassley	Reid
Bingaman	Gregg	Roberts
Bond	Hagel	Rockefeller
Brownback	Hatch	Salazar
Bunning	Hutchison	Santorum
Burns	Inhofe	Schumer
Burr	Isakson	Sessions
Carper	Johnson	Shelby
Chafee	Kennedy	Smith
Chambliss	Kerry	Snowe
Clinton	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Sununu
Collins	Lieberman	Talent
Conrad	Lincoln	Thomas
Cornyn	Lott	Thune
Craig	Lugar	Vitter
Crapo	Martinez	Voinovich
DeMint	McCain	Warner
DeWine	McConnell	
Dole	Menendez	

## NAYS—14

Boxer	Durbin	Levin
Byrd	Feingold	Murray
Cantwell	Harkin	Sarbanes
Dayton	Jeffords	Wyden
Dodd	Leahy	

## NOT VOTING—1

Inouye

The motion was agreed to.

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

## CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Conference Report to accompany H.R. 3199: The U.S. PATRIOT Terrorism Prevention Reauthorization Act of 2005:

Chuck Hagel, Jon Kyl, John McCain, Richard Burr, Conrad Burns, Pat Roberts, John Ensign, James Talent, C.S. Bond, Johnny Isakson, Wayne Allard, Norm Coleman, Kay Bailey Hutchison, Mel Martinez, John Thune, Jim DeMint, Jeff Sessions, Bill Frist, Arlen Specter.

The PRESIDING OFFICER. The question upon reconsideration is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 3199, the U.S. PATRIOT Terrorism Prevention Reauthorization Act of 2005, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 15, as follows:

[Rollcall Vote No. 28 Leg.]

## YEAS—84

Akaka	Domenici	Menendez
Alexander	Dorgan	Mikulski
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Frist	Obama
Bennett	Graham	Pryor
Biden	Grassley	Reed
Bond	Gregg	Reid
Brownback	Hagel	Roberts
Bunning	Hatch	Rockefeller
Burns	Hutchison	Salazar
Burr	Inhofe	Santorum
Carper	Isakson	Schumer
Chafee	Johnson	Sessions
Chambliss	Kennedy	Shelby
Clinton	Kerry	Smith
Coburn	Kohl	Snowe
Cochran	Kyl	Specter
Coleman	Landrieu	Stabenow
Collins	Lautenberg	Stevens
Conrad	Lieberman	Sununu
Cornyn	Lincoln	Talent
Craig	Lott	Thomas
Crapo	Lugar	Thune
DeMint	Martinez	Vitter
DeWine	McCain	Voinovich
Dole	McConnell	Warner

## NAYS—15

Bingaman	Dodd	Leahy
Boxer	Durbin	Levin
Byrd	Feingold	Murray
Cantwell	Harkin	Sarbanes
Dayton	Jeffords	Wyden

## NOT VOTING—1

Inouye

The PRESIDING OFFICER. On reconsideration on this question, the yeas are 84, the nays are 15. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield my time to Senator LEAHY.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Washington.

Ms. CANTWELL. Mr. President, I yield my 1 hour of postcloture debate to the Democratic leader.

The PRESIDING OFFICER. The Senator has that right.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield the hour I might claim to the Democratic leader, Senator REID.

The PRESIDING OFFICER. The Senator has that right.

Mr. LIEBERMAN. I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent to be recognized as in morning business and that the time I use be charged against my time postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 2343 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR. Mr. President, I yield the remainder of my time to Senator LEAHY.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask that the Chair inform me when I have consumed 45 minutes of my time.

The PRESIDING OFFICER. The Senator will be notified.

Mr. FEINGOLD. I thank the Chair.

When it comes to the conference report on the USA PATRIOT Act, the die has now been cast. The Senate has voted to reconsider the vote against cloture from last December and now has voted to limit debate on the PATRIOT Act reauthorization bill. The rules of the Senate have changed since the days of Jimmy Stewart and "Mr. Smith Goes to Washington." One Senator, no matter how strongly he or she feels, cannot singlehandedly stop a bill when 60 or more of his or her colleagues are dead set on passing it. So obviously at this point, final passage of the reauthorization bill is now assured. I am disappointed in this result, obviously, but I believe this fight has been worth making and my dedication to changing the PATRIOT Act is as strong now as it has ever been.

We have made some progress since October 2001. The public understands the issues better and many of my colleagues do, too. Support for changes to the PATRIOT Act has grown over the years to the point where we actually had no objection in the Senate last year passing a pretty good bill—this was in July of 2005—a bill that made significant improvements to the PATRIOT Act. Then near the end of the year, 46 Senators actually voted to reject a conference report that took several steps backward from that bill. Even a few days ago, I was heartened

when the Senator from Pennsylvania, the chairman of the Judiciary Committee, the foremost proponent of the conference report, actually announced he would essentially take the four amendments I had hoped to offer, the amendments I was denied the right to offer in the Senate, and combine them into a bill he will now seek to move through the Judiciary Committee and enact into law. His bill will have several cosponsors, including me. So even some of the Senators who fought for this reauthorization bill, of course, realize it falls short and will join the fight to try to fix the PATRIOT Act. That is somewhat encouraging, and I thank them for their honesty. I thank them for recognizing that the rights and freedoms of the American people are worth fighting for in the Senate, just as we ask so many of our young people to fight for them overseas.

The rules of the Senate provide that debate on this measure is now limited after the vote on cloture we took. But debate is not yet closed. I believe there is still more that needs to be said. In particular, in the time I have remaining, I want to give voice to the millions of Americans who have expressed concern about the PATRIOT Act and have asked repeatedly for it to be changed. There has been an extraordinary outpouring of public sentiment against this law, and that sentiment deserves to be heard on the floor of the Senate. So in a few minutes I am going to read some of the resolutions that have been passed and editorials that have been written and letters that have been sent. In these final hours before the PATRIOT Act is reauthorized, I want my colleagues to hear the voices of the citizens of this country. These voices cannot be stifled by votes taken here. They may have been ultimately defeated by procedural maneuvers in this body over the past few weeks, but their concerns for the liberties and freedoms are real, and they are not going away. We ignore them at our peril.

Before I turn to those voices, I want to start with the basic principle. Our Nation's strength comes not only from our mighty and our unmatched military might but from our constitutional system and our reverence for the rule of law. That is what has kept us free for over 2¼ quarter centuries in our history as a nation. Millions of patriotic Americans love this country and support our military men and women in their difficult missions abroad but worry about the fate of our Constitution here at home. Our constitutional freedoms, our American values are what make our country worth fighting for as we strive to defeat the terrorists who threaten us. The Constitution and the Bill of Rights are documents we often talk about and less often actually pick up and reread. In light of their central importance to the debate about the PATRIOT Act, I thought it would be worth reading them today.

The United States Constitution:

We the People of the United States, in Order to form a more perfect Union, estab-

lish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish the Constitution for the United States of America.

#### ARTICLE I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years.

Of course, this provision has been amended by the 14th amendment so I will skip that part.

The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and George three.

As per act of November 15, 1941, the apportionment, based on the Sixteenth Census (1940), the Seventeenth Census (1950), and the Eighteenth Census (1960), distribute the 435 seats in the House among the States according to the method of equal proportions. (See Senate Manual section 974).

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representative shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senators shall have one Vote.

Immediately after they shall be assembled in Consequence of the First Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the Second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year; so that one-third Class at the Expiration of the sixth Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two-thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.

Section 1. The Time, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections; Returns, and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representa-

tives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish a uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to

the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9. The Migration or Importation of Such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State be obliged to enter, clear, or pay Duties in another.

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

#### ARTICLE II

Section 1. The executive Power shall be vested in a President of the United States of

America. He shall hold his Office during the Term of four years, and, together with the Vice-President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

In case of the Removal of the President from Office, or of his Death, resignation, or Inability to discharge the Powers and Duties of the said Office,† the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall, take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

#### ARTICLE III

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained.

#### ARTICLE IV

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall, be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory of other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to ever State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

#### ARTICLE V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article, and that no State without its Consent, shall be deprived of its equal Suffrage in the Senate.

## ARTICLE VI

All Debts contracted and Engagements entered into, before the Adoption of this Constitution shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

## ARTICLE VII

The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth.

The Bill of Rights, amendments 1 through 10 of the Constitution.

The Conventions of a number of States; having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution: **RESOLVED** by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz:t.

## AMENDMENT [I]

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

## AMENDMENT [II]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

## AMENDMENT [III]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

## AMENDMENT [IV]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Mr. President, I am going to read that one again. It is the fourth amend-

ment. More than any other provision I am reading, this is the one that is at the heart of the debate about this USA PATRIOT Act and its provisions, and it is this provision that is particularly violated by the imminent reauthorization of this law:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## AMENDMENT [V]

No person shall be held to answer for a capital, or other wise infamous crime, unless on a presentment, or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offenses to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## AMENDMENT [VI]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

## AMENDMENT [VII]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

## AMENDMENT [VIII]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## AMENDMENT [IX]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has consumed 34 minutes.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, I ask unanimous consent that I may be permitted to speak for no longer than about 20 minutes as if in morning business and that the time be charged postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. TALENT are printed in today's RECORD under "Morning Business.")

Mr. TALENT. I thank my friend from Wisconsin for letting me have the floor to do this. I am happy to yield back the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that the Senator from Nevada has been yielded 2 hours. I already have 1 hour.

I ask 2 hours 50 minutes of that time be yielded to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I don't think I need consent, do I?

The PRESIDING OFFICER. The Senator does not need consent.

The Senator from Vermont.

Mr. LEAHY. The Senator from Vermont, under the parliamentary situation, is entitled to time?

The PRESIDING OFFICER. The Senator is entitled to 2 hours 54 minutes.

Mr. LEAHY. Mr. President, I will speak for a while. It is my intent to then yield the remainder of my time to the distinguished Senator from Wisconsin.

The Senate is going to soon vote to reauthorize the USA PATRIOT Act. I am one of the authors of the original 2001 PATRIOT Act. I voted to reauthorize an improved version of the act back in July of 2005.

Obviously, I am concerned, as all Americans are, with our security. I am concerned, as is the distinguished Presiding Officer and the distinguished Senator from Wisconsin, as one who goes to work every day, along with thousands of others, in a building that was targeted for destruction by al-Qaida. So I am glad we are making progress. However, I have to admit to being disappointed at the missed opportunity to get it right.

The PATRIOT Act provides important and valuable tools for the protection of Americans from terrorism. These matters should be governed by law, not by whim.

Legislative action should be the clear and unambiguous legal footing for any Government powers. Former Congressman Arme, Dick Arme, the Republican leader of the House, and I insisted that sunset provisions be included in the 2001 act. Because we did that, we ended up with reconsideration and some refinement of the powers authorized in that measure.

Now the challenge of Congress is to provide the effective oversight needed

in the days ahead and to ensure that there is court review of the actions that affect the rights of Americans.

The bill contains several sunshine provisions that I proposed. I did that to ensure we would have oversight and to ensure some measure of public accountability for how our Government uses its powers.

For the first time ever, the Justice Department is going to be required to report publicly on its use of two secret surveillance tools that have come under fire from civil libertarians but also from the business community. These are the FISA business record authority and the so-called national security letters, or NSLs. The Justice Department has been declassifying this information sporadically, when politically convenient. It could offer no plausible justification for keeping the information classified, especially when comparable data regarding more sensitive surveillance techniques such as wiretapping and physical searches is routinely disclosed.

The conference between the two bodies accepted my proposal that these powers be subject to detailed, comprehensive, and unclassified audits by the Justice Department's Office of the Inspector General. Specifically, the OIG will audit the effectiveness and use, including any improper or illegal use, of the FISA business record and NSL authorities during the last several years and going forward.

In performing these audits, the OIG will examine the categories of records obtained, the importance of the information required, the manner in which it is retained and disseminated, and whether the information is used for data mining purposes. The NSL audit will be followed by a report on the feasibility of applying minimization procedures in the context of NSLs to ensure the protection of the constitutional rights of United States persons.

I have tried to describe it accurately. I realize that sounds like a bureaucratic computer wrote it. I want to be very specific because this administration sometimes does not pay attention to specific items. What we do not want is any agency of our Government feeling they can simply go and use these demands for records to go on a fishing expedition or find somebody they do not like and say: Let's just grab all their records. Let's go through all their records. Let's follow up on these records and see if there is something else we want—and just do that on and on with somebody who has no recourse, no ability to speak out. Their businesses might be ruined, their lives might be ruined, and it turns out: Whoops, sorry, we made a mistake. We are going on to somebody else. We saw after 9/11 when that happened. We saw businesses ruined, ranging from restaurants to other kinds of businesses, where: Whoops, sorry, we got the wrong person. Too bad you had no real ability to question what we were doing.

I proposed another sunshine provision. I am glad the conference accepted

it. It comes from a bill I introduced in the last Congress with Senators SPECTER and GRASSLEY. It requires the FISA Court to publish its procedures and share their rules in an unclassified report. Also, it requires annual reporting of the use of so-called sneak-and-peek search warrants and FISA's emergency surveillance authorities.

Again, we give very special powers to our Government, recognizing the fact that, as long as the distinguished Presiding Officer lives, as long as I live, we will face these kinds of threats. But we want to make sure the powers we give do not become powers just unto themselves where none of us know where the check or the balance is.

The bill includes a scaled-back version of a data-mining provision that was added by a floor amendment in the House.

Most of us use e-mails. We often send medical information on ourselves, our children, our families. Maybe if you are in a business you send information you want held so you can have a competitive advantage over your competitor. A lot of that can be picked up in data-mining operations.

As contained in the current bill, the provision calls for a one-time report on pattern-based data mining by the Department of Justice. What is that expression, pattern-based data mining? They develop models based on expected behavior or profiles of criminal or terrorist activity, then they mine databases of personal information to try to identify those patterns.

It is sort of the Kevin Bacon "six degrees of separation," except we assume they are not going after Kevin Bacon. It does raise concerns about profiling and individual privacy. There is a concern that if you happen to be in a restaurant somebody frequented, you are now going to be under surveillance.

Now, in addition to the sunshine provisions, I proposed we retain the sunset mechanism that worked so well in the original PATRIOT Act. Sometimes both sunshine and sunset work well together. As I said, Republican House Majority Leader Dick Armey and I insisted, in 2001, on a 4-year sunset for certain PATRIOT Act powers. If we had not done that, we would not even be having this debate today. We would not have even looked at what happened, especially with a Congress reluctant to do oversight, a Congress unwilling to question anything this administration does.

They were forced, actually, to ask questions about what is happening under the PATRIOT Act because a conservative Member of the House—Dick Armey—and a liberal Senator—myself—put in the sunset provisions so we would be forced to look at it no matter who was President, no matter who controlled the House, no matter who controlled the Senate. And thank goodness we did because if we had not done that, I guarantee you, this Congress never would have asked a question of anybody. If we had not had that, the Bush

administration would have stonewalled our request for information, just as they have on so many other things.

The sunsets are the reasons we have been going through a review and renewal process over the last few months. And the improvements were hard won. The Bush administration pursued its usual strategy of demanding sweeping Executive powers, resisting checks and balances. They were long on partisan rhetoric and awfully short on bipartisan dialog. As usual, the Republican majorities in the House and the Senate did their utmost to follow the White House's directives to prevent any sudden breakout of bipartisanship. But a ray of bipartisanship slipped through the cracks, and the bill is the better for it.

It contains 4-year sunsets, not 7- or 10-year sunsets like the administration wanted. The bill no longer contains a provision that would have made it a crime merely to disclose the receipt of a national security letter. Somebody hands you a national security letter and demands documents and it's a crime if you tell anybody about it. "Wait a minute, you just closed down my business. I can't comply with this." "Tough. You can't tell anybody. You can't tell your wife. You can't tell the people who work for you." This is America. We finally did away with that, even though the administration strongly wanted that kind of control.

They even wanted Americans, if they were served with a national security letter and dared to seek legal advice, they had to go humbly to the FBI first and tell them they were actually going to get a lawyer—in America—to find out why they were being subpoenaed. Now, I know they like control in this administration. That went too far. So we no longer require American citizens to tell the FBI before they exercise their right as Americans to seek the advice of counsel. Sunlight is the best disinfectant. When the sunlight came in on this bill, some of these things fell.

Chairman SPECTER and I worked together on these improvements, and our efforts have produced a better bill for the protection of all Americans. In this regard, I also compliment the Senate Democratic conferees, whose efforts were extraordinary. Whether they vote for or against the final product, Senators ROCKEFELLER, LEVIN, and KENNEDY all deserve the thanks of the Senate and the American people for their hard work and steadfastness.

Late changes were achieved by Republican Senators who had joined us in resisting the conference report in December.

When terrorists strike, they do not ask whether you are Democrats or Republicans or Independents. If they want to strike Americans, they strike Americans. They do not ask what your politics are. And all Americans—Democrats, Republicans, Independents—want to stop terrorists. All Americans



oppose what they have done. So, therefore, it was regrettable that this administration—with a President who was elected on a solemn campaign pledge to be a uniter and not a divider—refused to engage both Democrats and Republicans on ways to improve the bill. They spoke to only one party, as though only one party cared about America being safe. The White House Counsel spoke to only Republican Senators. So they, in turn, negotiated to achieve what they view as improvements and what they could. It is, of course, less than what we would have liked, but I appreciate the fact they did what they could insofar as they were dealing with an administration that did not want to treat the safety of Americans in a bipartisan way.

But, therefore, the bill still falls short in several critical regards.

Let's talk about section 215 of the PATRIOT Act, the business records provision that has been so important to the libraries. Under section 215, the Government can obtain a secret order that compels access to sensitive records of American citizens. It also imposes a permanent gag on the recipient. In other words, I grabbed your records. Don't you dare tell anyone. This is America. This is America. We have had Presidents condemn other countries—and rightly so—for doing this sort of thing to their citizens, and we want to do it to our own?

Before passage of the PATRIOT Act, there were two significant limitations on the FBI's power to seize business records. First, it could be used only for a few discrete categories of travel records, such as records held by hotels, motels, vehicle rental facilities. Second, the legal standard for obtaining the order was demanding. The Government had to present specific and articulable facts giving reason to believe that the subject of the investigation was a foreign power or an agent of a foreign power.

Passed in the weeks following 9/11, the PATRIOT Act did away with these limitations. It both expanded what the FBI may obtain with a Section 215 order and it lowered the standard for obtaining it. Under current law, the Government need only assert that something—anything—is sought for an authorized investigation to protect against terrorism or espionage, and the judge will order its production. What counts as an authorized investigation is within the discretion of the Executive branch.

Now, the Senate—and I compliment those Republicans and Democrats on the Senate Judiciary Committee who got together on the reauthorization bill that we passed last July—the Senate reestablished a significant check on this power. Under the Senate bill, relevance to an authorized investigation is not enough. The Government must also show some connection between the records sought and a suspected terrorist or spy. This is a funda-

mental protection that would not hamstring the Government, but would do much to prevent overreaching in Government surveillance. I fought for it in the Senate. Chairman SPECTER and every Republican Senator voted for it. Then the Bush administration found out about that. It ordered the Republican Members of Congress to strip it out in conference, and these independent bodies—this check and balance—said: Aye, aye, sir, and stripped it out.

The current bill also falls short on its treatment of national security letters. These are, in effect, a form of secret administrative subpoena. Again, my God, they love doing things in secret. They love doing things in secret, and they tell us afterwards: Trust us. I seem to have read something recently in the press about an agreement to have another country run the operations of our ports. They said, after failing to consult Congress, trust us. We secretly looked at Dubai. We secretly looked at this, and we understand that money for the hijackers went through that country, but we have secretly looked at it and it is a good idea. Don't ask us any questions.

Well, now they have this form of secret administrative subpoena. They are issued by FBI agents without the approval of a judge or a grand jury or a prosecutor. They allow agents to obtain certain types of sensitive information about innocent Americans simply by certifying its relevance to a terrorism or espionage investigation. If the FBI agent does not like your looks, they can just come in with this secret subpoena and seize your records. Your business can be shut down on the whim of one agent—no judge, no grand jury, no prosecutor, no check and balance. And oh, by the way, we will do it secretly. Like section 215 orders, NSLs come with a permanent gag. Recipients are prohibited from telling anyone anything about it.

The bill does not allow meaningful judicial review of this gag order. It requires the court to accept as conclusive the Government's assertion that a gag order should not be lifted, unless the court determines the Government is acting in bad faith. This raises serious First Amendment and due process concerns. Fixing this provision was one of my top priorities in the conference and during my subsequent discussions with Senator SPECTER. The Bush administration's refusal to agree to this change was a significant factor in my consistent opposition to the conference report in December. And there is strong opposition to this provision from both Democrats and Republicans from the right to the left. But the administration refused to correct it. They also refused, as an alternative, to sunset the national security letter authority.

I continued to seek remediation of this provision in January and February through discussions with Senator SUNUNU and Senator SPECTER, but they

were unable to achieve that result. This creates, in my view, a sham judicial proceeding within the complete control of the Government that smacks too much of a police state. It is wrong. It needs to be fixed.

I wish Americans would think: What are we giving up with the idea we might be a little more secure? Wouldn't it be a lot better to fix the mistakes that were made by the administration that allowed 9/11 to happen in the first place, to go back and find out where those mistakes were made and fix them? Wouldn't it be better to finally, years later, start actually being able to translate all the information we have picked up—something we did not do before 9/11 and today we still do not do it anywhere near enough?

Wouldn't it have been better to have done that than to say to Americans, most of whom would be law-abiding: We are going to give you this letter—which just one person decides on—and we will seize your records. You can't talk to anybody about it, and there's really nothing you can do about that. You have no real judicial way of overturning the gag order.

If we heard of other countries doing this, we would be critical and rightly so. If the Chinese did this, we would criticize them and rightly so. If the old Soviet Union did this, we would have criticized them and rightly so. Please, do not let our country go down that road. We are too good a people. We are too honest a people.

The bill's treatment of the PATRIOT Act's so-called sneak-and-peek provisions is another area of concern. Section 213 of the PATRIOT Act authorized the Government to carry out secret searches in ordinary criminal investigations. Armed with a Section 213 search warrant, FBI agents may enter and search a home or office and not tell anyone about it until weeks or months later.

It is interesting to recall that four years ago, the House Judiciary Committee took one look at the Bush administration's original proposal for sneak and peak authority and dropped it entirely from its version of the legislation. As chairman of the Senate Judiciary Committee, I was able to make some improvements in the administration's proposal, but problems remained. In particular, Section 213 says that notice may be delayed only for "a reasonable period." The Bush administration has abused that flexible standard and used it to justify delays in notice of a year or more. Pre-PATRIOT Act case law stated that the appropriate period of delay was no more than seven days.

The Senate voted to replace the "reasonable period" standard, which the Bush administration has been abusing, with a basic 7-day rule, while permitting the Government to obtain additional 90-day extensions of the delay from the court. The current bill sets a 30-day rule for the initial delay, more than three times what the Senate, and

pre-PATRIOT Act courts, deemed appropriate. The shorter period would better protect Fourth Amendment rights without in any way impeding legitimate government investigations. The availability of additional 90-day extensions means that a shorter initial time frame should not be a hardship on the Government. But our improvement has been rejected in favor of too much Government power.

The current bill is also loaded with extraneous provisions that have nothing to do with the expiring PATRIOT Act authorities or even with terrorism. The bill modifies habeas corpus law—the great writ—a highly controversial provision that is wholly improper to consider in this context. I doubt it would ever pass, if it were put to a straight up-or-down vote. But slip it in the bill and say: It is for national security. Give up your rights, Americans. It is for national security.

Many times people in this Chamber talk about Benjamin Franklin, and we think back to that time. Here is a man involved in the revolution against King George. Had he failed, he would have been hanged. Most of those around him would have been hanged. But when he has now become the Government and his friends have become the Government, replacing King George, he wanted to make sure to protect the people from the Government. As he said, those who would give up essential liberties for temporary security deserve neither liberty or security.

Habeas corpus, the one thing that every one of us can count on, the great writ, the thing that sets us apart from virtually every other country and the thing that protects us so much, was changed because a small number of Republican conferees wanted to change it. They did not want to bring it on the floor of the Senate or the House and vote on it up or down. It has nothing to do with terrorism or even the more general tools of Federal law enforcement. It was almost a whim, let's take away these rights.

These changes were not included in the PATRIOT Act reauthorization bill of either the House or the Senate, but mysteriously, here it is, slipped in.

I recall that part in "A Man for All Seasons" where Sir Thomas More's protege William Roper is basically saying, the end justifies the means, and Sir Thomas More spoke of the law as something there to protect us. He said, and I am paraphrasing: All of England is planted thick with laws. And his protege said, in effect, he would cut down all those laws, if need be, to get at the devil. And Thomas More said: And what will protect you then, with all the laws cut down? Yes, I'd give the devil benefit of the law, for my own safety's sake.

I wonder if we are not doing that, especially with the sneaky way this was done. That is the only way I can describe it, sneaky. The administration said: Kick the Democratic conferees out. And the independent bodies, the

House and the Senate, said: Aye-aye, sir. It violates our rules, but, yes, sir, if you want that for the White House. And then they slipped it in. Neither body's Judiciary Committee approved it. Incidentally, the U.S. Judicial Conference, at that time headed by Chief Justice Rehnquist, made up of some of the most conservative judges in the country, strongly opposed doing this.

Another extraneous provision of the bill will revive a small group of pending death penalty prosecutions for aircraft hijacking murders committed in the 1970s and 1980s. It is designed to overrule the district court decision in *United States v. Safarini*, which struck the death penalty for a 1986 hijacking offense on the grounds that the Federal Death Penalty Procedures Act of 1994 could not be retroactively applied to a pre-1994 crime, absent clear congressional intent to do so.

To my knowledge, Congress has never enacted death penalty legislation intended to allow the execution of a tiny number of known offenders for crimes they are alleged to have committed from one to three decades previously. Whether the Government can ultimately persuade the courts that this does not violate the letter of the ex post facto and bill of attainder clauses of the Constitution, it certainly violates their spirit. It is telling that the Department of Justice, in its testimony before the House Judiciary Committee, strongly recommended adding in a severability clause, in case this provision was ultimately held invalid by a court of law. I share the Department's skepticism regarding the constitutionality of this wrongheaded provision, and deeply regret its inclusion in the conference report.

To sum up, the bill presents a complex mixture of valuable provisions which I support and would vote for if they were individually here, significant improvements on the one hand but so many serious flaws and missed opportunities on the other. I think the final product would have been better if Members of Congress, Republicans and Democrats, both bodies had been allowed to work as Members of Congress, as representatives of the people instead of as puppets of the most secretive administration of the six administrations with which I have served. The Bush administration insisted on locking Democrats out of the negotiations. They did that, first, in connection with the conference and, again, after the Senate would not proceed to pass the conference report last December. When I and others tried to have conversations with the White House to improve the bill, our efforts were dismissed. Basically, they took the attitude, as long as they can get the votes they needed on the Republican side of the aisle, there is no purpose in any bipartisan effort. What a mistake.

This is a bill that has both virtues and vices. I respect those who conclude that on balance the bill's virtues outweigh its vices. And if they conclude

that, then vote for it. But I believe we can and should do better. I believe America can do better. I will continue to work to improve the PATRIOT Act. I will work to provide better oversight of the use of national security letters. I will work to remove what is a gross, un-American restraint on meaningful judicial review, the sort of thing that Presidents of both parties have strongly condemned when done by other countries. I hate to see our country do it.

I will seek to monitor how sensitive personal information that they are now allowed to seize from medical files, gun stores, and libraries is obtained and used. Today, I will join Senators SPENCER, SUNUNU, CRAIG, and others in introducing a bill to improve the PATRIOT Act and reauthorization legislation in several important respects. While we have made some progress, much is left to be done.

Let me be very clear about this. There are good parts of this bill, but there are also serious bad parts. The serious bad parts are worse if you have an administration that does not believe in checks and balances and prefers to do everything in secret. We now see the administration seeking to twist the Authorization for Use of Military Force against al-Qaida into a justification for its secret, illegal wiretapping of Americans' emails and telephone calls. We see the administration claiming that it need not fulfill its constitutional responsibility to faithfully execute the laws and that it can pick and choose among the laws it will recognize. And we see an administration that continues to attack anyone that gets in their way and insists on the rule of law.

Confronted with the administration's claims of unchecked power, I do not believe that the restraints we have been able to include in this reauthorization of the PATRIOT Act are sufficient. I will continue to work to provide the tools that we need to protect the American people. I trust that Vermonters will understand that while I have repeatedly voted to extend and reauthorize the PATRIOT Act, this measure, this time, falls short of what they deserve. So I won't support it in its current form. I will continue to work to provide the oversight of checks needed on the use of Government power and seek to improve this reauthorization legislation. I know the Senate will adopt it, but it is a pale shadow of what it could be. It is not the best that the greatest democracy on Earth deserves. I will fight for the best, but I will not vote for second best.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Vermont has 2 hours 24 minutes.

Mr. LEAHY. I thank the Chair, my good friend.

I yield all but 15 minutes of that time to the distinguished Senator from Wisconsin.



The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Vermont for yielding the time and also for his excellent remarks and his comments on this issue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COBURN). Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, we pass a lot of laws in this body, but most of them don't get any public attention. Not so with the PATRIOT Act. Few pieces of legislation have the kind of public understanding and recognition the PATRIOT Act does. The PATRIOT Act has become a rallying cry for those concerned about Government overreaching, grabbing for more power than it needs, using a time of crisis to justify changes in the law it otherwise could not hope to see made.

People all over the country want us to take a step back, to reconsider, to fix the PATRIOT Act. Perhaps the strongest evidence of this is that in the past 4 years, more than 400 State and local governments have passed resolutions opposing or objecting to various aspects of the PATRIOT Act. Eight of those government bodies are State legislatures that have already passed resolutions opposing the PATRIOT Act.

In April 2003, Hawaii was the first State to adopt a statewide resolution. The next month, in May 2003, Alaska and Vermont passed resolutions. Over the course of 2004 and 2005, we saw three more resolutions in Colorado, Montana, and Maine. Finally, Idaho passed a resolution specifically to support the SAFE Act's amendments to the PATRIOT Act, and recently, on February 16, California passed a resolution on the PATRIOT Act.

I will read these resolutions. There are eight such resolutions, Alaska being the first.

A resolution:

Relating to the USA PATRIOT Act, the Bill of Rights, the Constitution of the State of Alaska, and the civil liberties, peace, and security of the citizens of our country.

Be it resolved by the Legislature of the State of Alaska:

WHEREAS the State of Alaska recognizes the Constitution of the United States as our charter of liberty, and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and privacy; and

WHEREAS each of Alaska's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the State of Alaska; and

WHEREAS the State of Alaska denounces and condemns all acts of terrorism, wherever occurring; and

WHEREAS attacks against Americans such as those that occurred on September 11,

2001, have necessitated the crafting of effective laws to protect the public from terrorist attacks; and

WHEREAS any new security measures of federal, state, and local government should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of the State of Alaska and the nation; and

WHEREAS certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001", also known as the USA PATRIOT Act, allow the federal government more liberally to detain and investigate citizens and engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our state and federal constitutions;

BE IT RESOLVED that the Alaska State Legislature supports the government of the United States of America in its campaign against terrorism, and affirms its commitment that the campaign not be waged at the expense of essential rights and liberties of citizens in this country contained in the United States Constitution and the Bill of Rights; and be it

FURTHER RESOLVED that it is the policy of the State of Alaska to oppose any portion of the USA PATRIOT Act that would violate the rights and liberties guaranteed equally under the state and federal constitutions; and be it

FURTHER RESOLVED that, in accordance with Alaska state policy, an agency or instrumentality of the State of Alaska, in the absence of reasonable suspicion of criminal activity under Alaska State law, may not

(1) initiate, participate in, or assist or cooperate with an inquiry, investigation, surveillance, or detention;

(2) record, file, or share intelligence information concerning a person or organization, including library lending and research records, book and video store sales and rental records, medical records, financial records, student records, and other personal data, even if—

Even if—

authorized under the USA PATRIOT Act;

(3) retain such intelligence information; the state Attorney General shall review the intelligence information currently held by the state for its legality and appropriateness under the United States and Alaska Constitutions and permanently dispose of it if there is no reasonable suspicion of criminal activity; and be it

FURTHER RESOLVED that an agency or instrumentality of the state may not,

(1) use state resources or institutions for the enforcement of federal immigration matters, which are the responsibility of the federal government;

(2) collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership, unless the information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct;

(3) engage in racial profiling; law enforcement agencies may not use race, religion, ethnicity, or national origin as factors in selecting individuals to subject to investigatory activities except when seeking to apprehend a suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect; and be it

FURTHER RESOLVED that the Alaska State Legislature implores the United States Congress to correct provisions in the USA

PATRIOT Act and other measures that infringe on civil liberties, and opposes any pending and future federal legislation to the extent it infringes on Americans' civil rights and liberties.

Copies of this resolution shall be sent to the Honorable George W. Bush, President of the United States; the Honorable John Ashcroft, Attorney General of the United States; the Honorable Frank Murkowski, Governor of Alaska; and to the Honorable Ted Stevens, and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

That is the Alaska resolution.

California Senate Joint Resolution No. 10—Relative to the USA PATRIOT Act. Approved by the California Senate, introduced by Senator Figueroa.

WHEREAS, The State of California recognizes the Constitution of the United States of America as our charter of liberty, and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including freedoms of religion, speech, and privacy; and

WHEREAS, The State of California has a distinguished history of safeguarding the freedoms of its residents; and

WHEREAS, Each of California's duly elected public servants are sworn to defend and uphold the United States Constitution and the Constitution of the State of California; and

WHEREAS, The State of California denounces and condemns all acts of terrorism, wherever occurring; and

WHEREAS, Any new security measures of Federal, State, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent persons in the State of California and the Nation; and

WHEREAS, Certain provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, also known as the USA PATRIOT Act, allow the government greater authority to detain and investigate persons and to engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our Federal and State Constitutions, including rights of due process, the right to privacy, the right to counsel, protection against unreasonable searches and seizures, and basic First Amendment freedoms; and

WHEREAS, The people of California are concerned that many provisions of the USA PATRIOT Act pose significant threats to constitutional protections; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the State of California supports appropriate and effective measures by the Government of the United States of America and the State of California to combat terrorism and affirms its commitment that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country contained in the United States Constitution and the Bill of Rights; and be it further

Resolved, That the State of California also urges its congressional delegation to work to repeal any provisions of the USA PATRIOT Act that limit or impinge on rights and liberties protected equally by the United States Constitution and the California Constitution and to oppose any pending and future Federal legislation to the extent that it would infringe on Americans' civil rights and liberties; and be it further

Resolved, that the State of California will ensure that no State resources be provided

for any action that would violate the United States Constitution or the Constitution of the State of California, including but not limited to, all of the following:

(1) Collecting or maintaining information about the political, religious, or social views, associations, or activities of any individual group, association, organization, corporation, business or partnership, unless the information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.

(2) Recording, filing, or sharing intelligence information concerning a person or organization, including library lending and research records, book and video sales and rental records, medical records, financial records, student records and other personal data, even if authorized under the USA PATRIOT Act.

(3) Demanding nonconsensual releases of student and faculty records from public schools and institutions of higher learning.

(4) Eavesdropping on confidential communications between lawyers and their clients.

(5) Engaging in racial profiling that enables law enforcement agencies to use race, religion, ethnicity or national origin as factors in selecting individuals to be subject to investigational activities, except when seeking to apprehend a specific suspect whose race, religion, ethnicity or national origin is part of the description of the suspect; and be it further

Resolved, That the Secretary of State shall transmit copies of this resolution to the President and the Vice President of the United States and the Speaker of the House of Representatives, to the majority leader of the Senate, and to each Senator and Representative from California in the Congress, the Attorney General of the United States, and to all Federal and State law enforcement agencies.

Mr. President, that is the second resolution. The third one is from Colorado. Senate Joint Resolution 05-044 concerning the State's commitment to Uphold Constitutional Rights in the Fight Against Terrorism, approved by the Colorado General Assembly.

WHEREAS, The State of Colorado is committed to upholding the fundamental and inalienable rights, including the freedoms of religion, speech, assembly and privacy, that are enshrined in the Constitutions of the United States and the State of Colorado; and

WHEREAS, Colorado's elected public servants have sworn to defend and uphold the Federal and State Constitution; and

WHEREAS, The State of Colorado denounces and condemns all acts of terrorism, wherever occurring; and

WHEREAS, The attacks that occurred on September 11, 2001, and the continuing threat of terrorism underscore the need for strong and effective laws and policy to protect the American public; and

WHEREAS, The security measures taken by Federal, State, and local governments should be carefully designed and applied to enhance public safety without infringing on the civil liberties and rights of innocent people in the State of Colorado and throughout the Nation; and

WHEREAS, Certain provisions of the Federal "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act", also known as the "USA PATRIOT Act", expand the power of the Federal Government to detain and investigate people in the United States and to engage in surveillance activities that may be inconsistent with the rights

and liberties guaranteed by the State and Federal constitutions; now, therefore,

Be it Resolved by the Senate of the Sixty-fifth General Assembly of the State of Colorado, the House of Representatives concurring herein:

(1) That the General Assembly supports the Government of the United States in its campaign against terrorism and affirms its commitment that the campaign not be waged at the expense of the essential civil rights and liberties enshrined in the Constitution of the United States and the State of Colorado;

(2) That it is the policy of the State of Colorado to oppose any provision or application of the USA PATRIOT Act that would violate the rights and liberties guaranteed by the State and Federal Constitutions;

(3) That, in accordance with the policy of this State, no agency or instrumentality of the State should, without reasonable suspicion of criminal activity under Colorado law:

(A) Initiate, participate in, assist, or cooperate with any inquiry, investigation, surveillance, or detention; (b) Record, file, or share intelligence information concerning any person or organization, including library lending and research records, book and video store sales and rental records, medical records, financial records, student records, Internet mail and usage records, and other personal data, even if authorized under the USA PATRIOT Act; or (c), Retain such intelligence information.

(4) That no agency or instrumentality of the State should: (A) collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, organization or business entity, unless the information indirectly relates to an investigation of criminal activities and there are reasonable grounds to suspect that the subject of the information is involved in criminal conduct; or (b) Use race, religion, ethnicity or national origin as factors in selecting individuals to subject to investigatory activities, except with respect to a specific suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect.

(5) The General Assembly urges the United States Congress to amend provisions of the USA PATRIOT Act and other measures that infringe on civil rights and liberties and imposes the enactment of future Federal legislation that infringes on civil rights and liberties.

Be It Further Resolved, That copies of this joint resolution be sent to the Honorable George W. Bush, President of the United States; the Honorable Alberto Gonzalez, Attorney General of the United States; the Honorable Bill Owens, Governor of Colorado; and the members of Colorado's congressional delegation.

Now we go to Hawaii's resolution, the first one to pass. Senate Concurrent Resolution Reaffirming the State of Hawaii's Commitment to Civil Liberties and the Bill of Rights Approved by the Hawaii State legislature.

WHEREAS The Hawaii State legislature is committed to upholding the United States Constitution and its Bill of Rights and the Hawaii State Constitution and its Bill of Rights (Article I, Sections 1 through 22); and

WHEREAS The State of Hawaii has a distinguished history of safeguarding the freedoms of its residents; and

WHEREAS The State of Hawaii is comprised of a diverse and multi-ethnic population, and has experienced firsthand the value of immigration to the American way of life; and

WHEREAS The residents of Hawaii during World War II experienced firsthand the dangers of unbalanced pursuit of security without appropriate checks and balances for the protection of basic liberties; and

WHEREAS The recent adoption of the USA PATRIOT Act and several executive orders may unconstitutionally authorize the Federal Government to infringe upon fundamental liberties in violation of due process, the right to privacy, the right to counsel, protection against unreasonable searches and seizures, and basic first amendment freedoms, all of which are guaranteed by the constitutions of Hawaii and the United States; and

WHEREAS The citizens of Hawaii are concerned that the actions of the Attorney General of the United States and the United States Justice Department are significant threats to constitutional protections; now, therefore,

Be It Resolved by the Senate of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, the House of Representatives concurring, that the State of Hawaii urges its congressional delegation to work to repeal any sections of the PATRIOT Act or recent executive orders that limit or violate fundamental rights and liberties protected by the constitutions of Hawaii and the United States; and

Be It Further Resolved that to the extent legally possible, no State resources—including law enforcement funds and educational administrative resources—may be used for unconstitutional activities, including but not limited to the following under the USA PATRIOT Act:

(1) Monitoring political and religious gatherings exercising their First Amendment Rights;

(2) Obtaining library records, bookstore records, and Web site activities without proper authorization and without notification;

(3) Issuing subpoenas through the United States Attorney's Office without a court's approval or knowledge;

(4) Requesting nonconsensual releases of student and faculty records from public schools and institutions of higher learning; and

(5) Eavesdropping on confidential communications between lawyers and their clients.

Be It Further Resolved that certified copies of this concurrent resolution be transmitted to Hawaii's delegation in the United States Congress.

Now Idaho.

Stating findings of the Legislature concerning adoption of the SAFE Act to limit certain provisions of the PATRIOT Act in order to protect liberties of citizens of the United States and urging the congressional delegation representing the State of Idaho in the Congress of the United States to support the SAFE Act: House Joint Memorial No. 7, approved by the Idaho State legislature.

We, memorialists, the House of Representatives and the Senate in the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, as citizens of the State of Idaho strongly believe that basic civil liberties must be preserved and protected, even as we seek to guard against terrorists and other threats to national security; and

WHEREAS, there are some principles of our democracy which are so fundamental to the rights of citizenship that they must be preserved to guard the very liberties we seek to protect; and

WHEREAS, legislation known as the SAFE Act has been introduced in the Congress of the United States to adopt amendments to

the PATRIOT Act which would address some of the most problematic provisions of that act; and

WHEREAS, the SAFE Act amends the PATRIOT Act to modify the provisions regarding the roving wiretaps to require that the identity of the target be given and that the suspect be present during the time when surveillance is conducted; and

WHEREAS, the SAFE Act revises provisions governing search warrants to limit the circumstances when the delay of notice may be exercised and to require reports to the Congress when delays of notice are used; and

WHEREAS, the SAFE Act requires specific and articulable facts to be given before business records are subject to investigation by the Federal Bureau of Investigation; and

WHEREAS, the SAFE Act provides that libraries shall not be treated as communication providers subject to providing information and transaction records of library patrons; and

WHEREAS, it is appropriate that the legislature of the State of Idaho, on behalf of the citizens of Idaho, express support of the efforts of Senator Larry Craig to adopt the SAFE Act, and encourage full support of the Idaho congressional delegation.

Now, therefore, be it resolved by members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho legislature endorses the efforts to amend the PATRIOT Act to ensure that it works well to protect our security, but that it does not unnecessarily compromise essential liberties of the citizens of the United States. We urge the congressional delegation representing the State of Idaho in the Congress of the United States to support legislation introduced by Senator Larry Craig, known as the SAFE Act.

Mr. President, the Maine Resolution, Joint Resolution Memorializing the President of the United States and the Congress of the United States to Ensure the Protection of Civil Liberties and the Security of the United States Approved by the Maine State Legislature.

We, your Memorialists, the Members of the One Hundred and Twenty-first legislature of the State of Maine now assembled in the Second Special Session, most respectfully present the petition of the President of the United States and the United States Congress, as follows.

WHEREAS, the State of Maine recognizes that the Constitution of the United States is our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and privacy; and

WHEREAS, each of Maine's duly elected public servants have sworn to uphold and defend the Constitution of the United States and the Constitution of Maine; and

WHEREAS, the State of Maine denounces and condemns all acts of terrorism, wherever occurring; and

WHEREAS, attacks against Americans such as those that occurred on September 11, 2001 have necessitated the crafting of effective laws to protect the public from terrorist attacks; and

WHEREAS, any new security measures of Federal, State, and local governments should be carefully designed and employed to enhance public safety, without infringing on the civil liberties and the rights of any citizens in the State of Maine and the Nation; and

WHEREAS, matters relating to immigration are primarily Federal in nature; and

WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act of 2001," commonly referred to as the USA PATRIOT Act, allow the Federal Government more liberally to detain and investigate citizens and engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our State and Federal Constitutions; now therefore,

Be It Resolved: That we, Your Memorialists, on behalf of the people we represent, take this opportunity to inform the President of the United States and the United States Congress that the Maine State Legislature supports the government of the United States of America in its campaign against terrorism and affirms its commitment that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country contained in the Constitution of the United States and the Bill of Rights; and be it further

Resolved: That the Maine State Legislature urges that the Federal Government to continue to exercise its jurisdiction over immigration matters and encourages the Federal Government to work cooperatively with the States to provide assistance and training to protect our country; and be it further

Resolved: That laws passed by the United States Congress to specifically combat the threat of international terrorism should not be used in conducting domestic law enforcement; and be it further

Resolved: That the Maine State legislature implores the United States Congress to review the provisions in the USA PATRIOT Act and other measures that may infringe on civil liberties and ensure any pending and future Federal liberties.

AND BE IT FURTHER RESOLVED: That the Legislature calls upon our United States Representatives and Senators to monitor the implementation of the USA PATRIOT Act and related federal actions and, if necessary, repeal those sections of the USA PATRIOT Act and related federal measures that may infringe upon fundamental rights and liberties as recognized in the United States Constitution and its amendments; and be it further resolved that official copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, the Honorable John Ashcroft, Attorney General of the United States; the Honorable John E. Baldacci, Governor of the State of Maine; Richard Cheney, President of the United States Senate; Dennis Hastert, Speaker of the United States House of Representatives; and each member of the Maine Congressional Delegation.

Mr. President, Montana:

A Joint Resolution of the Senate and the House of Representatives of the State of Montana supporting the Montana Constitution, the United States Constitution, and the Bill of Rights; encouraging various actions in support of fighting terrorism and protecting civil rights and civil liberties; requesting the Attorney General of Montana to compile and disseminate relevant information regarding actions taken by the Federal Government under the USA PATRIOT Act; and encouraging Montana's congressional delegation to support and ensure the civil rights of all Montanans and citizens of the United States, which includes allowing the USA PATRIOT Act to expire.

WHEREAS, the citizens of Montana recognize the Constitution of the United States as our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and privacy; and

WHEREAS, each of Montana's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the State of Montana; and

WHEREAS, the citizens of Montana denounce and condemn all acts of terrorism by any entity, wherever the acts occur; and

WHEREAS, terrorist attacks against Americans, such as those that occurred on September 11, 2001, have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist attacks; and

WHEREAS, any new security measures of federal, state, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of Montana and the United States; and

WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001", also known as the USA PATRIOT Act, allow the federal government to more liberally detain and investigate citizens and to engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our state and federal constitutions.

Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

That the 59th Montana Legislature supports the government of the United States in its campaign against terrorism and affirms the commitment of the United States that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country that are protected in the United States Constitution and the Bill of Rights.

BE IT FURTHER RESOLVED, that it is the policy of the citizens of Montana to oppose any portion of the USA PATRIOT Act that violates the rights and liberties guaranteed under the Montana Constitution or the United States Constitution, including the Bill of Rights.

BE IT FURTHER RESOLVED, that in accordance with Montana state policy, in the absence of reasonable suspicion of criminal activity under Montana law, the 59th Montana Legislature exhorts agents and instrumentalities of this state to not:

(1) initiate or participate in or assist or cooperate with an inquiry, investigation, surveillance, or detention under the USA PATRIOT Act if the action violates constitutionally guaranteed civil rights or civil liberties;

(2) record, file, or share intelligence information concerning a person or organization, including library lending and research records, book and video store sales and rental records, medical records, financial records, student records, and other personal data, even if authorized under the USA PATRIOT Act, if the action violates constitutionally guaranteed civil rights or civil liberties; or

(3) retain any of the intelligence information described in subsections (1) and (2) of this clause if the information violates constitutionally guaranteed civil rights or civil liberties.

BE IT FURTHER RESOLVED, that the Attorney General of Montana is encouraged to review intelligence information currently held by the state, assess the legality and appropriateness of holding the information under the United States Constitution and Montana Constitution, and permanently dispose of all such information to which there is not attached a reasonable suspicion of criminal activity.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature admonishes every agency and instrumentality of the state to not:

(1) use state resources or institutions for the enforcement of federal immigration matters that are the responsibility of the federal government;

(2) collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership unless the information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect that the subject of the information was, is, or may be involved in criminal conduct; or

(3) engage in racial profiling.

BE IT FURTHER RESOLVED, that state and local law enforcement agencies should not use race, religion, ethnicity, or national origin as factors in selecting individuals to subject to investigatory activities, except when seeking to apprehend a specific suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests:

(1) public schools and institutions of higher learning within Montana to provide notice to each individual whose education records have been obtained by law enforcement agents pursuant to section 507 of the USA PATRIOT Act; and

(2) each public library within Montana to post in a prominent place within the library a notice to library users as follows: "WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-56), records of the books and other material you borrow from this library may be obtained by federal agents. Federal law prohibits librarians from informing you if records about you have been obtained by federal agents. Questions about the law and policy that allows federal agents to obtain and use information about your activities in this library should be directed to: U.S. Attorney General, Department of Justice, Washington, DC 20530".

BE IT FURTHER RESOLVED, that the 59th Montana Legislature encourages the Attorney General of Montana to periodically seek from federal authorities the following information in a form that facilitates an assessment of the effect of federal antiterrorism efforts on the residents of Montana:

(1) the name of each resident of Montana who has been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001, the location of each detainee, the circumstances that led to each detention, the charges, if any, lodged against each detainee, and the name of counsel, if any, representing each detainee;

(2) the number of search warrants that have been executed in Montana pursuant to section 213 of the USA PATRIOT Act and without notice to the subject of the warrant;

(3) the extent of electronic surveillance carried out in Montana under powers granted in the USA PATRIOT Act;

(4) the extent to which federal authorities monitor political meetings, religious gatherings, or other activities within Montana that are protected by the First Amendment;

(5) the number of times that education records have been obtained from public schools and institutions of higher learning in Montana under section 507 of the USA PATRIOT Act;

(6) the number of times that library records have been obtained from libraries in Montana under section 215 or section 505 of the USA PATRIOT Act; and

(7) the number of times that records of the books purchased by store patrons from book-

stores in Montana have been obtained under section 215 of the USA PATRIOT Act.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests the Attorney General of Montana to compile and transmit to each member of the Legislature, at least once every 6 months, a summary of the information obtained pursuant to the legislative requests made in this resolution and, based on the information and any other relevant information, to include an assessment of the effect of federal antiterrorism efforts on the residents of Montana.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature desires that all public libraries adopt policies that ensure the regular destruction of records, when the records are no longer needed, that may be used to identify the name of a book borrower or the name of any Internet user.

BE IT FURTHER RESOLVED, that in order to protect intellectual privacy rights, the 59th Montana Legislature advises all persons in local businesses and institutions, particularly booksellers, to refrain whenever possible from keeping records that can be used to identify the name of any purchaser and to regularly destroy sales records maintained by the business or institution.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana delegation in the United States Congress to:

(1) correct provisions in the USA PATRIOT Act and other administrative measures that infringe on civil liberties by supporting the sunset provisions of the USA PATRIOT Act, slated to be reviewed by Congress in 2005, and ultimately allow the USA PATRIOT Act to expire; and

(2) support passage of the Security and Freedom Ensured Act of 2003 and the End Racial Profiling Act of 2004.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana Congressional Delegation to vigorously oppose any pending and all future federal legislation if the legislation infringes on the civil rights and civil liberties of American citizens. Federal legislation that the Montana Congressional Delegation is encouraged to oppose includes but is not limited to the Domestic Security Enhancement Act of 2003, also known as Patriot Act II.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to President George W. Bush, the Attorney General of the United States, Governor Brian Schweitzer, Senator Max Baucus, Senator Conrad Burns, and Representative Dennis Rehberg.

Mr. President, now we turn to Vermont.

Joint resolution strongly urging the President to revise executive orders and policies, and for Congress to amend provisions of the U.S.A. Patriot Act, which seriously erode fundamental civil liberties.

Approved by: Vermont State Senate.

WHEREAS, on September 11, 2001, for the first time since the War of 1812, the continental United States was subjected to an attack from abroad when terrorists commandeered four commercial airliners and destroyed the World Trade Center in New York City and caused significant damage to the Pentagon, and

WHEREAS, in response to these tragic and devastating events, which cost nearly 3,000 innocent American lives, Congress adopted the U.S.A. Patriot Act (Public Law 107-56) which is intended to enable the federal government to act more authoritatively in preventing future attacks, and

WHEREAS, while the prevention of future terrorist attacks is a critical national priority, it is equally important to preserve the fundamental civil liberties and personal free-

doms which were enshrined in the Bill of Rights over 200 years ago, and which have been preserved through a constant vigilance and outcry against periodic threats to their existence, and

WHEREAS, while sunset review dates were attached to certain provisions, the final bill remains, perhaps, the most severe legislative attack on civil liberties since the passage of the Alien and Sedition Acts in the 1790s, and

WHEREAS, under the auspices of both the U.S.A. Patriot Act and related executive orders, persons from the Middle East and South Asia have been unjustly targeted for interrogation and possible deportation, and

WHEREAS, the ability of the Central Intelligence Agency to engage in domestic spying activities, with tragic repercussions, fortunately halted in the 1970s, but is now being revived pursuant to sections 223 and 901 of the Act, and

WHEREAS, section 213 greatly lowers the threshold required for a court to issue a search warrant, and

WHEREAS, section 216 nearly eliminates judicial supervision of telephone and internet surveillance, and

WHEREAS, section 411 gives the U.S. Attorney General extraordinarily broad authority to designate domestic groups as "terrorist organizations," and

WHEREAS, both sections 411 and 412 subject noncitizens to indefinite detention or deportation even if they have not committed a crime, and

WHEREAS, several sections of the bill, including 215, 218, 358, and 508, permit law enforcement authorities to have broad access to sensitive mental health, library, business, financial, and educational records despite the existence of previously adopted state and federal laws which were intended to strengthen the protection of these types of records, and

WHEREAS, there has been an especially strong outcry in Vermont against the ability of federal authorities, under section 215 of the Act, to obtain judicially-issued warrants for library or bookstore patron records based on minimal information, and the accompanying prohibition on librarians and bookstore personnel from revealing any information regarding the request, and

WHEREAS, this provision runs directly counter to the intent of the Vermont General Assembly to protect the privacy of a library patron's records as codified in Title 3 §317(c)(19) of the Vermont Statutes Annotated, and the code of ethics of the American Library Association, and Whereas, both the Fletcher Free Library Commission and the Vermont Library Association have expressed their strongest possible concerns that the U.S.A. Patriot Act undermines constitutionally-guaranteed rights and the privacy of library patrons, and

WHEREAS, Congressman Bernard Sanders has announced his intention to sponsor legislation to exempt libraries and booksellers from the disclosure requirements of the U.S.A. Patriot Act, and

WHEREAS, a number of municipal legislative bodies, including the Burlington City Council, have expressed their deep concerns relative to the U.S.A. Patriot Act's historic degradation of civil liberties, and

WHEREAS, the law gravely threatens the civic values, personal freedoms, and rights that constitute the foundation of our national existence, now therefore be it Resolved by the Senate and House of Representatives: That the General Assembly strongly urges the President and members of the executive branch to review and revise executive orders and policies which have been adopted since September 11, 2001, and be it further

RESOLVED: That the General Assembly strongly urges the United States Congress to

revise the U.S.A. Patriot Act in order to restore and protect our nation's fundamental civil liberties, and, in particular, to enact Representative Sanders' proposal to exempt libraries and bookstores from the provisions of the Act, and be it further

RESOLVED: That the General Assembly requests that the office of the Vermont Attorney General offer legal support to any public library which is subject to a federal suit or administrative enforcement action for refusing to comply with the provisions of the Act related to library patrons' records, and be it further

RESOLVED: That the Secretary of State be directed to send a copy of this resolution to the President of the United States, to each member of the Vermont Congressional Delegation, and to Keith M. Fiels, Executive Director of the American Library Association, in Chicago.

There you have it. Those are the eight State government resolutions, but more than 400 total resolutions and ordinances have been passed, the rest by local, city, and county governments. In fact, on December 13, just 3 days before the first cloture vote on the conference report, the town of Coupeville, WA, became the 400th community or State to pass a resolution to reflect its citizens' concerns about the impact of the PATRIOT Act on constitutional rights. And since then four additional communities have passed resolutions, not to mention the California State resolution I just read.

Let me read a few of these county and city resolutions. I can do more later. Why don't we begin with the four passed in my State of Wisconsin.

Douglas County, this is one of the northern most counties in the State.

Resolution by the Douglas County Board of Supervisors, Subject U.S.A. PATRIOT Act, approved by Douglas County Board of Supervisors.

WHEREAS, Douglas County, Wisconsin, recognizes the Constitution of the United States of America to be the supreme law of the land, which all public servants are sworn to uphold, superceding all administrative rules, local ordinances, state statutes and federal laws, and

WHEREAS, Douglas County, Wisconsin, recognizes that the Bill of Rights, as represented in Exhibit H-5-03, embodies the rights of citizenship that have made the United States of America the land of freedom for more than 200 years, and

WHEREAS, Douglas County, Wisconsin, and the United States have benefited greatly through the constitutional rights and liberties afforded their diverse citizenry, in freedom of speech and assembly, equality before the law and the presumption of innocence, access to counsel and due process in judicial proceedings, and protection from unreasonable searches and seizures, and

WHEREAS, Douglas County, Wisconsin, affirms its strong opposition to terrorism, and further affirms that any efforts to end terrorism not be waged at the expense of our civil rights and liberties, and

WHEREAS, in the aftermath of the September 11, 2001 terrorist attack, in an effort to unite and strengthen America, and to combat terrorism, Congress passed the USA Patriot Act, and

WHEREAS, it has become apparent that the USA Patriot Act weakens the constitutional protections for every United States citizen as follows:

(1) First Amendment rights, which guarantee "freedom of religion, of speech, to

peaceably assemble, and to petition the government for a redress of grievances," are compromised by USA Patriot Act, Sections 802 and 215;

(2) Fourth Amendment protections, which guarantee the "right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures," are compromised by USA Patriot Act Sections 203, 206, 213, and 218; and

(3) Fifth Amendment protections of due process and attorney-client confidentiality are compromised.

NOW, THEREFORE, BE IT RESOLVED, that the Douglas County Board of Supervisors expresses deep concern over any compromise of constitutional freedoms which protect civil rights and liberties for all people of the United States.

BE IT FURTHER RESOLVED, that the Douglas County Board of Supervisors affirms its strong opposition to terrorism, but also affirms that any efforts to end terrorism should not be waged at the expense of fundamental civil rights and liberties, and that a threat to one person's constitutional rights is a threat to the rights of all.

BE IT STILL FURTHER RESOLVED, that the Douglas County Board of Supervisors requests that United States representatives and senators closely monitor implementation of the USA Patriot Act, as well as Executive Orders issued pursuant to the Act, and actively work to repeal those Sections of the USA Patriot Act that threaten the essential civil rights and liberties of all Americans.

BE IT STILL FURTHER RESOLVED, that any enhancement to the USA Patriot Act, such as USA Patriot Act II (aka Domestic Security Act of 2003), be forestalled until such time as enhancements or changes are done in full view of American citizens.

BE IT STILL FURTHER RESOLVED, that upon passage, a copy of this resolution shall be provided to Governor James Doyle, Senator Robert Jauch, Representative Frank Boyle, each Wisconsin congressional delegate, United States Attorney General John Ashcroft, Secretary of State Colin Powell, and President George W. Bush.

Next, a resolution from the northwestern part of Wisconsin, Eau Claire, WI, a resolution of the City of Eau Claire, WI, approved by the Eau Claire City Council.

WHEREAS, the City of Eau Claire and its citizens being governed by the United States Constitution and the Constitution of the State of Wisconsin; and

WHEREAS, the City of Eau Claire acknowledges that both the United States and Wisconsin Constitutions guarantee her citizens freedom of speech, freedom to peaceably assemble, freedom from unreasonable searches and seizures, freedom of religion, freedom to petition the government for grievances and protection of the rights of the accused; and

WHEREAS, the City of Eau Claire is home to a diverse population, including citizens of other nations, whose contributions to the community are vital to its charter and function; and

WHEREAS, the City Council of the City of Eau Claire, while a strong opponent of terrorism and a strong proponent for the safety and security of its citizens, believes that efforts to maintain and enhance public safety and security should not infringe on the essential civil rights and liberties of the people of Eau Claire; and

WHEREAS, the City of Eau Claire recognizes and honors all those who have served in the Armed Forces of the United States of America, and has with gratitude for their supreme sacrifice memorialized those in the Armed Forces who have died in battle to se-

cure and protect these same cherished rights and liberties; and

WHEREAS, sections of the USA PATRIOT Act now threaten these fundamental rights and liberties; and

WHEREAS, many citizens of Eau Claire, surrounding communities, and other communities across the nation are concerned that the USA PATRIOT Act threatens the civil rights and liberties of citizens of the United States and other nations by

so broadly defining "domestic terrorism" that any citizens who use direct action to further their political causes are vulnerable to prosecution as "domestic terrorists" (Sec. 802 of the USA PATRIOT Act);

authorizing federal agents to conduct covert searches of a person's home or office without notice of the execution of a search warrant until after the search has been completed, in some cases up to 90 days later (Sec. 213 of the USA PATRIOT Act);

requiring the surrender of "any tangible things (including books, records, papers, documents and other items)" and without limits as to the parties from whom the seizure of the above-mentioned tangible things can be required (Sec. 215 of the USA PATRIOT Act);

authorizing the government to install tracking devices on Internet Service Providers which are capable of intercepting all forms of Internet activity, e-mail messages, web page activity and Internet telephone communications whether the client is targeted in an investigation or not (Sec. 216 of the USA PATRIOT Act);

allowing searches to take place without probable cause of criminal conduct (Sec. 218 of the USA PATRIOT Act); and

authorizing the United States Attorney General to detain indefinitely non-citizens on immigration violations and to arrest material witnesses not charged with any crime (Sec. 412 of the USA PATRIOT Act).

WHEREAS, the City of Eau Claire recognizes that to date some 236 cities, towns, counties and states in the United States of America have passed resolutions, ordinances or ballot initiatives protecting the civil liberties of their residents;

Therefore, we the City Council of Eau Claire, Wisconsin, acting in the spirit of liberty, and to preserve those liberties guaranteed by the Constitutions of the United States of America and the State of Wisconsin, do hereby request that local, state, and federal law enforcement continue to preserve residents' freedom of speech, religion, assembly, and privacy;

1. Rights to counsel and due process in judicial proceedings; and protection from unreasonable searches and seizures, detentions and racial profiling;

2. The Wisconsin Congressional delegation actively work for the repeal of those portions of the Act and its extensions, including "Patriot Act II" and national security letters, that violate the rights and liberties guaranteed by the United States Constitution; and

3. The City Clerk communicate this resolution to all City and County departments and employees, Wisconsin's Congressional delegation, the Governor and Attorney General of the State of Wisconsin, and the President and Attorney General of the United States.

Now to the south-central part of the State, our State Capital, Madison, WI, a Resolution to Defend the Bill of Rights and Civil Liberties, approved by the Madison City Council.

WHEREAS, the City of Madison recognizes the Constitution of the United States of America to be the supreme law of the land, which all public servants are sworn to uphold, superceding all administrative rules, local ordinances, state statutes and federal laws;

WHEREAS, the City of Madison has a long and proud tradition of upholding the free exercise and enjoyment of the inalienable rights granted to all persons by the Universal Declaration of Human Rights and the Constitution of the United States of America;

WHEREAS, the City of Madison greatly benefits from the many contributions of its highly diverse population, which includes citizens from around the world, and is vital to our city's unique character;

WHEREAS, the City of Madison affirms its strong opposition to terrorism, but also affirms that any efforts to end terrorism not be waged at the expense of essential civil rights and liberties of the people of Madison, the United States and the World;

WHEREAS, the provisions of the USA Patriot Act expands the authority of the federal government to detain and investigate citizens and non-citizens and engage in electronic surveillance of citizens and non-citizens and threatens civil rights and liberties guaranteed under the United States Constitution;

WHEREAS, the City of Madison recognizes that such infringement of the constitutionally guaranteed rights of any person, under the color of law, is an abuse of power, a breach of the public trust, a misappropriation of public resources, a violation of civil rights and is beyond the scope of governmental authority;

IT IS THEREFORE RESOLVED, that the City of Madison remains firmly committed to the protection of civil rights and civil liberties for all people. The City of Madison will completely avoid discrimination in every function of city government, and vigorously uphold the constitutionally protected rights of all persons to peacefully protest and express their political views without any form of governmental interference.

IT IS FURTHER RESOLVED, that the City of Madison joins communities across the nation in expressing concern that the USA PATRIOT Act threatens civil rights and liberties guaranteed under the United States Constitution.

IT IS FURTHER RESOLVED, and is the policy of the City of Madison, to forbid in the absence of probable cause of criminal activity:

1. Any initiation of, participation in, assistance or cooperation with any inquiry, investigation, surveillance or detention; and

2. The recording, filing and sharing of any intelligence information concerning any person or organization, even if authorized by federal law enforcement, acting under new powers granted by the USA PATRIOT Act or Executive Orders. This includes collection and review of library lending and research records, as well as book and video store sales and/or rental records; and

3. The retention of intelligence information.

Information that is currently held shall be thoroughly and carefully reviewed by the City Attorney or other appropriate City official to be designated by the Mayor, for its legality and appropriateness, using the United States and Wisconsin Constitutions. Any information that was collected is permanently disposed of if there is no probable cause of criminal activity; and

4. Enforcement of immigration matters, which are entirely the responsibility of the Immigration and Naturalization Service. No city service will be denied on the basis of citizenship; and

5. Profiling based on race, ethnicity, citizenship, religion, or political values.

IT IS FURTHER RESOLVED, that any state or federal law enforcement agencies working within the City of Madison comply with the policies and procedures of the Madison Police Department, and regularly report to the Mayor the extent and manner in which they have acted under the USA PATRIOT Act or new Executive Orders. This includes the names of any detainees held in the Madison area, or any Madison residents detained elsewhere. The Mayor will then publicly report to the Common Council.

IT IS FURTHER RESOLVED, that the City Clerk communicate this resolution to all city departments, the Governor and Attorney General of the State of Wisconsin, the President and Attorney General of the United States of America and to call upon our congressional representatives to actively work to repeal the USA PATRIOT Act.

IT IS FINALLY RESOLVED THAT, this Resolution shall be severable if any phrase, clause, sentence or provision of this Resolution is declared by a court of competent jurisdiction to be contrary to the Constitution of the United States of America or the State of Wisconsin. If the applicability thereof to any agency, person or circumstances is held invalid, the validity of the remainder of this Resolution and applicability thereof to any other agency, person or circumstances shall not be affected thereby.

Finally, our largest city, Milwaukee, WI. Resolution Affirming the Protection of Citizens' Civil Rights and Civil Liberties. Approved by: Milwaukee City Council.

Whereas, The city of Milwaukee denounces terrorism and acknowledges that Federal, state and local governments have a responsibility to protect the public from terrorist attacks and uphold:

1. Freedom of speech, religion, assembly and privacy,

2. The right to counsel and due process in judicial proceedings, and

3. Protection from unreasonable searches, seizures and detention; and

WHEREAS, the members of the Common Council believe that there is no inherent conflict between national security and the preservation of liberty—Americans can be both safe and free; and

WHEREAS, Federal, state and local governments should protect the public from terrorist attacks, such as those that occurred on September 11, 2001, but should do so in a rational and deliberative fashion in order to ensure that security measures enhance the public safety without impairing constitutional rights or infringing on civil liberties; and

WHEREAS, the City of Milwaukee is grateful for the supreme sacrifice of military veterans and law enforcement officers who have died in protecting this country's cherished rights and liberties; and

WHEREAS, the U.S. Congress passed the USA PATRIOT Act on October 26, 2001 with little debate, following the attacks on the United States on September 11, 2001; and

WHEREAS, sections of the USA PATRIOT Act and several Executive Orders, now threaten fundamental rights and liberties, which are guaranteed by the Constitution of the State of Wisconsin and the United States Constitution and its Bill of Rights; the sections of the Act which threaten these human rights and liberties include:

Section 213 which permits law enforcement to perform searches with no one present and to delay notification of the search of a citizen's home.

Section 215 which permits the FBI Director to seek records from bookstores and libraries including books of patrons based on minimal evidence of wrongdoing and prohibits librarians and bookstore employees from disclosing the fact that they have been ordered to produce such documents.

Section 218 which dilutes the "probable cause" requirement before conducting secret searches or surveillance to obtain evidence of a crime.

Section 215, 218, 358, and 508 which permit law enforcement authorities to have broad access to sensitive mental health, library, business, financial and educational records despite the existence of previously adopted state and federal laws which were intended to strengthen the protection of these types of records; and

WHEREAS, the City of Milwaukee has a commitment to uphold the human rights of all persons in Milwaukee and the free exercise and enjoyment of any and all rights and privileges secured by our constitutions and laws of the United States, the State of Wisconsin and the Charter of the City of Milwaukee; now, therefore, be it

RESOLVED, by the Common Council of the City of Milwaukee, that the Common Council expresses its support of protection of citizens' human rights and civil liberties and opposition to those provisions of the USA PATRIOT Act that threaten those rights and liberties; and, be it

FURTHER RESOLVED, That the Common Council recognizes the crucial distinctions between:

Legal and peaceful demonstrations and protests, which are protected by the U.S. and Wisconsin constitutions and laws.

Acts of protest involving civil disobedience of minor law infractions such as disorderly conduct.

Acts of terrorism, which would involve serious threats or violence, such as kidnapping or serious bodily injury to a civilian population; and, be it

FURTHER RESOLVED, That the Common Council affirms its commitment to uphold civil rights and civil liberties and therefore expresses its opposition to:

(a) investigation of individuals or groups of individuals based on their participation in activities protected by the First Amendment, such as political advocacy or the practice of religion, without reasonable suspicion of criminal activity, and

(b) racial, religious or ethnic profiling; and, be it

FURTHER RESOLVED, That the Common Council calls upon Wisconsin's federal legislators to monitor the implementation of the USA PATRIOT Act and related federal actions and to actively work for the repeal of those sections of the USA PATRIOT Act that unduly infringe upon fundamental rights and liberties as recognized in the U.S. Constitution; and, be it

FURTHER RESOLVED, That the Common Council urges Wisconsin's federal legislators to support and co-sponsor the Security and Freedom Ensured Act of 2003 (SAFE Act) and urges Congressman F. James Sensenbrenner, chair of the House Judiciary Committee, to schedule hearings on the SAFE Act; and, be it

FURTHER RESOLVED, That the City of Milwaukee opposes any unfunded federal mandates instructing local police to attempt to enforce the complex civil immigration laws of the U.S. to the detriment of their primary law enforcement duties, as articulated by the Boston Police Commissioner: "turning all police officers into immigration agents . . . will discourage immigrants from coming forward to report crimes and suspicious activity, making our streets less safe as a result"; and, be it

FURTHER RESOLVED, That the City of Milwaukee remains committed to the protection of civil rights and civil liberties for all people and will uphold the constitutionally protected rights of all people to peacefully express their political views without governmental interference and that officers of the Milwaukee Police Department be trained consistent with the above principles; and, be it

FURTHER RESOLVED, That the Common Council opposes requests by federal authorities that, if granted, would cause agencies of



the City of Milwaukee to exercise powers or cooperate in the exercise of powers in violation of any city ordinance or the laws or Constitution of the State of the United States; and, be it

**FURTHER RESOLVED**, That in order to assess the effect of antiterrorism initiatives on the residents of the City of Milwaukee, the Common Council calls upon federal officials to make periodic reports, consistent with the Freedom of Information Act; and, be it

**FURTHER RESOLVED**, That the City of Milwaukee joins 43 million Americans, 250 communities in 37 states across the nation and the National League of Cities as of February 24, 2004 in expressing concern that existing elements of the USA PATRIOT Act threaten civil rights and liberties guaranteed under the U.S. Constitution.

Mr. President, I shared with my colleagues the resolutions of all eight States in this country, all the way from Alaska to Maine, that express deep concerns about provisions of the USA PATRIOT Act. This was our opportunity to respond to the voices of those legislatures and the people of those States, to their heartfelt concerns about the degradation of their civil liberties. Many of these are not liberal States. Many of these are some of the reddest of the red States, to put it into common parlance, and they are some of the strongest States when it comes to the question of whether someone's library records or business records should be obtainable on no showing whatever—whatever—that someone is connected either to terrorism or any kind of wrongdoing at all. That is American common sense, whether you are standing in Maine, Wisconsin, or Alaska.

I only shared 4 of the 400 resolutions from city councils and county governments that essentially say the same thing. But I did share four from all over my State of Wisconsin where I believe the sentiment is strong that there simply is no reason why we cannot get the balance right, why we can't always err on the side of more government power, where the feeling is that somehow we are capable in this Congress and in this Government and in this country of getting the terrorists and stopping the terrorists, but also protecting the fundamental rights on which this country is founded.

It is not just my words. I happen to have been the only person to vote against the original USA PATRIOT Act in this Senate. But what I have begun to share is the fact that hundreds and hundreds of governmental units across this country have passed resolutions by the elected representatives in those communities or in those States, saying, wait, there are problems with the USA PATRIOT Act and they must be fixed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the vote on adoption of the conference report to accompany H.R. 3199, the PATRIOT Act, occur at 3 p.m. tomorrow, with no further intervening action or debate. I further ask that the time until 2:30 be equally divided, with 1 hour of the time controlled by the minority to be under the control of Senator FEINGOLD and that the time between 2:30 and 3 p.m. be equally divided between the majority leader and the Democratic leader or their designees.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Reserving the right to object, I want the record to be spread with my appreciation to Senator FEINGOLD for working with us. Because of his agreeing to give up part of the time, it is going to make it more convenient for Members who have other things they would like to be doing, including another matter to vote on as soon as we finish this. So I want the record to indicate that I speak for many Senators in expressing appreciation to Senator FEINGOLD for working with us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, yesterday I opposed cloture on S. 2271, the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006. Although I support Senator SUNUNU's bill, I voted against ending debate on it because Members of the Senate should have the right to offer amendments to this legislation, which implicates some very weighty constitutional and civil liberty issues. Today, I voted in support of S. 2271 on its merits because I believe it improves the PATRIOT Act conference report. I will continue to work with Senators FEINGOLD, SPECTER, and others to make more improvements such as those included in the bipartisan Senate PATRIOT Act reauthorization bill, which passed unanimously last July.

#### GOLDEN GAVEL AWARD

Mr. FRIST. Mr. President, I wish to take a brief moment to acknowledge an important feat of one of our Members. At approximately 5 o'clock today, the distinguished Senator from Oklahoma, Mr. COBURN, reached his 100th hour of presiding. Senator COBURN will be the second Senator in the 109th Congress to receive the Golden Gavel Award.

Most Members will agree that the best way to learn about Senate procedure is to preside over the Senate Chamber. Senator COBURN has done so with distinction. He has done so with honor and with a firm but fair gavel. In addition to his regular presiding time, Senator COBURN has volunteered to preside and fill in on those late nights

and weekends when we are in dire need of help in the Chair. We all thank him for that.

The Senate owes a debt of gratitude to the Senator from Oklahoma. We thank him for his service and congratulate him on this outstanding achievement.

#### AUTISM SPECTRUM DISORDER

Mr. FRIST. Mr. President, each year roughly 24,000 children in the United States are born with an autism spectrum disorder. Over my short lifetime in medicine, the last 30 years, it has been remarkable to see the increase in autism spectrum disorder, a disorder which we don't understand today. We have made progress, but we don't understand it. The symptoms are tragic in many ways. They can be severe, or they have the spectrum from mild to severe. Autistic infants display abnormal reactions to various sensory stimuli, whether it is light or touch or smells, where touches can be experienced as being very painful, smells can be experienced as being very unpleasant. Loud noises and bright lights may cause reactions that involve a range of emotions, including weeping.

As the child grows older, they sometimes avoid cuddling or touching even close family members—again, this is a broad spectrum—many times preferring to stay alone, to play by themselves. By adolescence, these symptoms can become unbearably acute. You can imagine the impact this has on parents who become bewildered. Some lose hope. It is more common than childhood cancer today.

A lot of people don't realize that the incidence and prevalence of this has increased to the point that it surpasses childhood cancer. It can tear apart families—even the strongest families. The reason I bring it to the floor today is, I spent a good part of today talking to various people whose families have been affected. My own family has been affected by it. And as a physician, a doctor, as somebody who has devoted the majority of his adult life not to politics but to healing, I do believe that that combination of physician and legislator gives me certain responsibilities but also certain opportunities to push the frontiers of health, especially when we don't know the cause, the etiology.

That is why 6 years ago I sponsored the Children's Health Act of 2000. That was the first bill that looked at a whole spectrum of childhood diseases, one of which was autism. The legislation directed the National Institutes of Health to expand, to intensify, and to coordinate research into autism—this very complex, very poorly understood disorder. Progress has been made, but now the time has come to reauthorize that legislation.

Under the Children's Health Act, the NIH established the interagency coordinating committee to coordinate all autism-related activities at the Health